

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-4 are pending in the present application, Claims 1 and 3 having been amended. Support for the amendments to Claims 1 and 3 is found, for example, in the specification at page 6, line 19 to page 7, line 3. Thus, no new matter is added.

In the outstanding Office Action, Claims 1-4 were rejected under 35 U.S.C. §102(b) as anticipated by Grunewald (U.S. Patent No. 5,986,264).

Applicants respectfully traverse the outstanding ground of rejection because Grunewald does not teach or suggest every element of Claims 1 and 3, as amended.

Claims 1 and 3 are amended to recite, *inter alia*, “a data processing unit configured to construct three-dimensional data about a crystal orientation distribution of said sample by stacking a plurality of two dimensional data about said crystal orientation of said sample obtained with respect to said plurality of sections on the basis of results detected by said detecting unit.” Grunewald does not teach or suggest this element of Claims 1 and 3.

On the contrary, Grunewald uses an electron beam to monitor an etching process. The data generated by the electron beam in Grunewald is related to the on going status of specimen preparation and accuracy of the specimen etching.<sup>1</sup> Images are displayed on a monitor of the scanning electron microscope.<sup>2</sup> However, Grunewald provides no teaching or suggestion to “construct three-dimensional data about a crystal orientation distribution of said sample by stacking a plurality of two-dimensional data about said crystal orientation distribution of said sample obtained with respect to said plurality of sections on the basis of results detected by said detecting unit.”

---

<sup>1</sup> Grunewald, col. 6, lines 28-31.

<sup>2</sup> Grunewald, col. 6, lines 56-68.

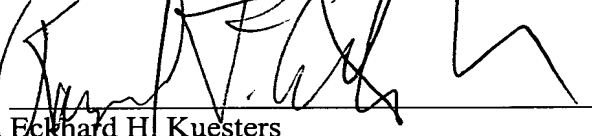
Application No. 10/686,652  
Reply to Office Action of March 10, 2005

In view of the above-noted distinction, Applicant respectfully submits that Claims 1 and 3 (and Claims 2 and 4) patentably distinguish over Grunewald.

Consequently, in view of the above amendments and comments, it is respectfully submitted that the outstanding rejection is traversed and that the pending claims are in condition for allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.

A handwritten signature in black ink, appearing to read 'Eckhard H. Kuesters', is written over a horizontal line.

Eckhard H. Kuesters  
Attorney of Record  
Registration No. 28,870

Raymond F. Cardillo, Jr.  
Registration No. 40,440

Customer Number

**22850**

Tel: (703) 413-3000  
Fax: (703) 413 -2220  
(OSMMN 06/04)